

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN McCALL,)	
)	
Plaintiff,)	
)	Case No. 4:10-cv-00269-HEA
v.)	
)	
MONRO MUFFLER BRAKE, INC. d/b/a)	
AUTOTIRE CAR CARE CENTER,)	
)	
Defendants.)	

JOINT PROPOSED SCHEDULING PLAN

COME NOW Plaintiff John McCall (“Plaintiff”) and Defendant Monro Muffler Brake, Inc., d/b/a Autotire Car Care Center (“Defendant”), and hereby set forth the following Joint Proposed Scheduling Plan pursuant to the Court’s November 23, 2010 Order. The parties have met, conferred and propose the following:

1. The parties believe that this action should be designated as a Track 3 case given the putative class action nature of the case.
2. Joinder of additional parties and amendment of pleadings shall be requested by April 4, 2011.
3. The parties shall disclose information and exchange documents with respect to Plaintiff’s individual claims pursuant to Fed. R. Civ. P. 26(a)(1) by February 1, 2011.
4. The parties request that discovery be conducted in two bifurcated phases as follows:
 - A. Discovery related to class certification issues shall be completed by July 15, 2011.
 - (i) Plaintiff shall disclose his expert(s) on class certification issues and provide the report(s) by April 4, 2011. The deposition(s) of Plaintiff’s expert(s) on class certification issues shall be completed

by May 18, 2011.

- (ii) Defendant shall disclose its expert(s) on class certification issues and provide the report(s) by June 1, 2011. The deposition(s) of Defendant's expert(s) on class certification issues shall be completed by July 15, 2011.
- (iii) Plaintiff's class certification motion shall be filed no later than August 1, 2011.
- (iv) Defendant's opposition to class certification shall be filed no later than September 15, 2011.
- (v) Plaintiff's reply in support of his class certification motion shall be filed no later than September 30, 2011.

B. The parties shall conduct all remaining "merits" discovery during a 4-month period commencing on the date the Court rules upon Plaintiff's class certification motion.

5. The presumptive limits of ten (10) depositions per side as set forth in Fed. R. Civ. P. 30(a)(2)(A) and twenty-five (25) interrogatories per party as set forth in Fed. R. Civ. P. 33(a) should not be varied at this time.

6. Requests for physical or mental examinations of parties are not anticipated.

7. The parties do not currently anticipate any issues related to the disclosure or discovery of electronically stored information, including the form or forms in which it should be produced.

8. The parties anticipate the need to negotiate and present for Court approval a protective order for the production of any requested confidential information.

9. Any motions for summary judgment or other dispositive motions or motions to exclude testimony pursuant to *Daubert/Kuhmo Tire* may be filed up to the filing of Plaintiff's class certification motion. If the Court grants Plaintiff's class certification motion in whole or in part, an additional dispositive motion deadline shall be proposed in a subsequent schedule.

10. The parties suggest that this case may be suitable for mediation at a mutually

convenient time following the Court's ruling on Plaintiff's class certification motion.

11. The earliest date by which this case should reasonably be expected to be ready for trial is following the Court's ruling on Plaintiff's class certification motion.

12. If the Court grants Plaintiff's class certification motion, the estimated length of time expected to try the case to verdict is ten (10) trial days. If the Court denies the class certification motion, the estimated length of time expected to try the case to verdict is two (2) trial days.

Dated: December 3, 2010

Respectfully submitted,

/s/John E. Campbell

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been filed with the Court using the CM/ECF electronic filing system on this the 3rd day of December, 2010, to:

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Attorneys for Plaintiff, John McCall

/s/ Robert J. Wagner